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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/789,546

02/27/2004

Tarek Kaylani

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EXAMINER

TSE, YOUNG TOI

ART UNIT

PAPER NUMBER

2611

MAIL DATE

DELIVERY MODE

06/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/789,546

Applicant(s)

KAYLANI ET AL.

Examiner

YOUNG T. TSE

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16,21,26 and 27 is/are allowed.
- 6) ☒ Claim(s) 23-25 and 28 is/are rejected.
- 7) ☒ Claim(s) 17-20,22-25 and 28-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20040406.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: page 1, line 7, Applicants are requested to update the application No. 09/498,162, now U.S. Patent No. 6,711,227; page 3, line 11, "FIG. 6 are waveforms" should be "FIG. 6 shows waveforms". Appropriate correction is required.

Claim Objections

2. Claims 17-20, 22-25 and 28-30 are objected to because of the following informalities:

In claim 17, line 1, "generating a" should be "generating the" for clarity; line 2, "pulse trains" should be "regularly occurring pulse trains"; and line 7, "180°" should be "180°".

In claim 18, line 2, "differential" should be "the differential".

In claim 19, line 3, "pulse trains" should be "regularly occurring pulse trains".

In claim 20, line 3, "pulse train.." should be "pulse trains..".

In claim 22, line 2, "a plurality" should be "the plurality" for clarity; and line 2, "pulse trains" should be "regularly occurring pulse trains".

In claim 23, line 4, "pulse trains" should be "regularly occurring pulse trains".

Wherein claims 24 and 25 depend either directly or indirectly upon claim 23.

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In claim 28, line 12, "an empty flag" should be "the empty flag" for clarity.

Wherein claims 29 and 30 depend either directly or indirectly upon claim 28.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 23 recites the limitation "the desired frequency" in line 4. There is insufficient antecedent basis for this limitation in the claim. Wherein claims 24 and 25 depend either directly or indirectly upon claim 23.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claim 28 is rejected on the ground of nonstatutory double patenting over claim 11 of U. S. Patent No. 6,711,227 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: claim 28 of the instant application is broader than claim 11 of U. S. Patent No. 6,711,227 without the use of generating a clock pulse train from an oscillator. Although the conflicting claim 28 of the instant application is not identical to claim 11 of U. S. Patent No. 6,711,227, they are not patentably distinct from each other because the broader claim of the instant application would have been obvious in view of the narrow issued claim of the U.S. Patent No. 6,711,227 (see *In re Emert*, 124 F.3d 1458, 44USPQ2d 1149).

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Allowable Subject Matter

7. Claims 16, 21 and 26-27 are allowed.
8. Claims 17-20 and 22-25 would be allowable if rewritten or amended to overcome the objection(s) set forth in this Office action.
9. Claims 23-25 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
10. Claims 28-30 would be allowable if rewritten or amended to overcome the objection(s) set forth in this Office action and timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wagner relates to a processor for time-base correcting a digitized clock asynchronous with respect to a television's horizontal line frequency, such that, if uncorrected, the number of samples per horizontal line may vary and the time alignment of the first sample of each horizontal line may vary.

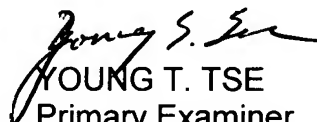
Herbert relates to a method and apparatus for transferring data and synchronizing data transfer between components operating at different speeds within a data processing system.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOUNG T. TSE whose telephone number is (571) 272-3051. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


YOUNG T. TSE
Primary Examiner
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